

IN THE SENATE

SENATE BILL NO. 1099

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

RELATING TO PRODUCER LICENSING; AMENDING SECTION 41-1037, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS AND PURPOSE; AMENDING SECTION 41-1038, IDAHO CODE, TO DEFINE TERMS; AMENDING SECTION 41-1039, IDAHO CODE, TO PROVIDE THAT THE DIRECTOR HAS EXCLUSIVE AUTHORITY TO LICENSE BAIL AGENTS AND TO REGULATE THE SOLICITATION, NEGOTIATION AND TRANSACTION OF BAIL, TO PROVIDE THAT LICENSED BAIL AGENTS ARE AUTHORIZED TO EXECUTE AND COUNTERSIGN BAIL BOND CONTRACTS IN CERTAIN JUDICIAL PROCEEDINGS, TO PROVIDE THAT DISTRICT COURTS SHALL ACCEPT BAIL BOND CONTRACTS ONLY FROM CERTAIN LICENSED BAIL AGENTS AND TO PROVIDE NOTICE REQUIREMENTS; AND AMENDING SECTION 41-1040, IDAHO CODE, TO REVISE PROVISIONS RELATING TO BOND REQUIREMENTS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-1037, Idaho Code, be, and the same is hereby amended to read as follows:

41-1037. REQUIREMENTS FOR BAIL AGENTS – FINDINGS AND PURPOSE. (1) Sections 41-1037 through 41-1045, Idaho Code, provide requirements for the regulation of bail agents in this state in addition to the requirements generally applicable to producers under this chapter.

(2) The legislature finds that:

(a) Bail agents provide an important retail service to the general public;

(b) Consumers and bail agents require a uniform and consistent regulatory framework that governs retail bail practices and eliminates regulatory duplication and unnecessary expenditure of taxpayer resources; and

(c) Consumers require protection from unscrupulous and unfair practices.

(3) The purpose of this chapter is to provide the department with the authority to comprehensively, exclusively and uniformly license and regulate bail agents in the state of Idaho.

SECTION 2. That Section 41-1038, Idaho Code, be, and the same is hereby amended to read as follows:

41-1038. DEFINITIONS. As used in sections 41-1037 through 41-1045, Idaho Code:

(1) "Bail" means a monetary amount required by the court to release the defendant from custody and to ensure his appearance in court as ordered.

(2) "Bail agent" means a licensed producer in the line of surety insurance that is authorized by an insurer to execute or countersign undertakings of bail in connection with judicial proceedings.

1 (3) "Bail bond" means a financial guarantee, posted by a bail agent and underwritten by a
 2 surety insurance company, that the defendant will appear as ordered.

3 (4) "Bail bond contract" means a contract between the state of Idaho, the defendant and
 4 the surety insurance company.

5 ~~(25)~~ "Collateral" means property of any kind given as security to obtain a bail bond.

6 ~~(36)~~ "Department" means the department of insurance.

7 ~~(47)~~ "Director" means the director of the department of insurance.

8 (8) "Surety" or "surety insurance company" means an admitted insurer authorized in the
 9 line of surety pursuant to title 41, Idaho Code.

10 SECTION 3. That Section 41-1039, Idaho Code, be, and the same is hereby amended to
 11 read as follows:

12 41-1039. LICENSE REQUIRED. (1) The director has the exclusive authority to license
 13 and regulate bail agents and to regulate the solicitation, negotiation and transaction of bail with
 14 the public. No person shall hold himself out to be a bail agent or sell, solicit, negotiate, advise
 15 or consult regarding the terms of bail bond contracts in this state unless that person is licensed
 16 as a producer in the line of surety insurance.

17 (2) Notwithstanding any other provision of law or substantive rule but subject to the
 18 procedural rules of the courts, a bail agent licensed pursuant to this chapter is authorized to
 19 execute and countersign bail bond contracts, in connection with any judicial proceeding in each
 20 of the judicial districts of this state and any sheriff or clerk of the district court shall accept
 21 bail bond contracts only from a licensed bail agent appointed by a surety insurance company
 22 holding a certificate of authority as provided in chapter 3, title 41, Idaho Code.

23 (3) A bail agent's license that has been filed with the clerk of a district court shall be
 24 deemed proof that the bail agent is licensed pursuant to this chapter.

25 (4) If the director revokes or suspends a bail agent's license, then the director shall notify
 26 each of the district court administrators on or before the effective date of the revocation or
 27 suspension.

28 SECTION 4. That Section 41-1040, Idaho Code, be, and the same is hereby amended to
 29 read as follows:

30 41-1040. BOND REQUIRED. After January 1, 2004, a producer shall not act as a bail
 31 agent unless the producer first files with the department and thereafter maintains in force a
 32 surety performance bond, executed by an authorized surety insurer, in favor of the director
 33 in the amount of fifteen thousand dollars (\$15,000). Such bond shall be held in trust for
 34 the benefit and protection of the public against a judicial determination or an administrative
 35 determination by the department of loss by acts of fraud or dishonesty by the bail agent.